

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York



HASAN TAHIRAJ

Plaintiff(s)

v.

BROOKLYN KINGS PLAZA LLC and

SCUNGIO BORST & ASSOCIATES, LLC

Defendant(s)

Civil Action No. 17-cv-00167 (JBW) (LB)

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

BROOKLYN KINGS PLAZA LLC
c/o Manatt, Phelps & Phillips, LLP
7 Times Square
New York, New York 10036Scungio Borst & Associates, LLC
2 Riverside Drive, Suite 500
Camden, New Jersey 08103

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Mullaney & Gjelij, PLLC
100-09 Metropolitan Avenue
Forest Hills, New York 11375

Attn: Barry Liebman, Esq. and Nick Gjelij, Esq.

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

EXHIBIT B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
HASAN TAHIRAJ ,

Plaintiff,

-against-

BROOKLYN KINGS PLAZA LLC and SCUNGIO BORST
& ASSOCIATES, LLC,

Defendants.
-----X

Civil Action No.:
17-cv-00167 (JBW) (LB)
**(PLAINTIFF DEMANDS
TRIAL BY JURY ON ALL
ISSUES)**

AMENDED COMPLAINT

Plaintiff, by his attorneys, **MULLANEY & GJELAJ, PLLC**, complaining of the
Defendants, respectfully alleges, upon information and belief, as follows:

PARTIES

1. Plaintiff is a resident of the County of Kings, State of New York.
2. Upon information and belief, the defendant, **BROOKLYN KINGS PLAZA LLC**, is, a foreign limited liability company authorized to conduct and/or transact business in the State of New York.
3. Upon information and belief, the defendant, **SCUNGIO BORST & ASSOCIATES, LLC**, is, a foreign limited liability company authorized to conduct and/or transact business in the State of New York.

JURISDICTION

4. The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.
5. Upon information and belief, that this Court has diversity of citizen jurisdiction over this action pursuant to 28 U.S.C. § 1332.

VENUE

6. Upon information and belief, venue of this action in the Eastern District of New York was properly laid at the time the underlying state court action against defendant, BROOKLYN KINGS PLAZA LLC was removed to this Court pursuant to 28 U.S.C. §1441 (a).

7. Upon information and belief, venue of this action in the Eastern District of New York is proper pursuant to 28 U.S.C. §1391 (b)(2), in that a substantial part of the event giving rise to the claim occurred in the Eastern District of New York.

FACTS

8. Upon information and belief, that on March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, owned the property located at Block 8470 Lot 55, and Block 8470 Lot 114, in Brooklyn, County of Kings, City and State of New York (hereinafter referred to as "the premises").

9. Upon information and belief, that on March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, owned the structure erected on the premises.

10. Upon information and belief, that on March 3, 2016, the premises was also located at street address 5100 Kings Plaza, Brooklyn New York 11234.

11. Upon information and belief, that on March 3, 2016, the premises was known by the name Kings Plaza Shopping Center.

12. Upon information and belief, that on March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, managed the premises.

13. Upon information and belief, that on March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, maintained the premises.

14. Upon information and belief, that on March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, controlled the premises.

15. Upon information and belief, that on March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, operated a shopping center at the premises.

16. Upon information and belief, that on March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, owned a shopping center at the premises.

17. Upon information and belief, that on March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, controlled the premises.

18. Upon information and belief, that on March 3, 2016, the premises included an entrance to the shopping mall known as Level P1 West Mall Entrance.

19. Upon information and belief, that on March 3, 2016, the Level P1 West Mall Entrance at the premises contained three doorway entrances leading from the parking lot to the shopping center at the premises.

20. Upon information and belief, that on March 3, 2016, and prior thereto, the defendant, BROOKLYN KINGS PLAZA LLC, inspected the doorway entrances at Level P1 West Mall Entrance at the premises.

21. Upon information and belief, that on March 3, 2016, and prior thereto, the defendant, BROOKLYN KINGS PLAZA LLC, made repairs to the premises.

22. Upon information and belief, that on March 3, 2016, each of the doorway entrances at Level P1 West Mall Entrance at the premises had a door saddle.

23. Upon information and belief, that on March 3, 2016, the left doorway entrance at Level P1 West Mall Entrance leading to the shopping mall had a temporary door saddle.

24. Upon information and belief, that on March 3, 2016, the center doorway entrance at Level P1 West Mall Entrance leading to the shopping mall had a permanent door saddle.

25. Upon information and belief, that on March 3, 2016, the right doorway entrance at Level P1 West Mall Entrance leading to the shopping mall had a permanent door saddle.

26. Upon information and belief, that at some point prior to March 3, 2016, there was a permanent door saddle at the left doorway entrance at Level P1 West Mall Entrance of the premises.

27. Upon information and belief, that at some point prior to March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, removed the permanent door saddle at the left doorway entrance at Level P1 West Mall Entrance of the premises.

28. Upon information and belief, that at some point prior to March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, caused the permanent door saddle at the left doorway entrance at Level P1 West Mall Entrance of the premises to be removed.

29. Upon information and belief, that at some point prior to March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, contracted with defendant, SCUNGIO BORST & ASSOCIATES, LLC, to remove the permanent door saddle at the left doorway entrance at Level P1 West Mall Entrance of the premises.

30. Upon information and belief, that at some point prior to March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, hired defendant, SCUNGIO BORST & ASSOCIATES, LLC, to remove the permanent door saddle at the left doorway entrance at Level P1 West Mall Entrance of the premises.

31. Upon information and belief, that at some point prior to March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, retained defendant, SCUNGIO BORST & ASSOCIATES, LLC, to remove the permanent door saddle at the left doorway entrance at Level P1 West Mall Entrance of the premises.

32. Upon information and belief, that at some point prior to March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, placed the temporary door saddle at the left doorway entrance at Level P1 West Mall Entrance of the premises.

33. Upon information and belief, that at some point prior to March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, caused the temporary door saddle to be placed at the left doorway entrance at Level P1 West Mall Entrance of the premises.

34. Upon information and belief, that at some point prior to March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, installed the temporary door saddle at the left doorway entrance at Level P1 West Mall Entrance of the premises.

35. Upon information and belief, that at some point prior to March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, hired defendant, SCUNGIO BORST & ASSOCIATES, LLC, to place the temporary door saddle at the left doorway entrance at the Level P1 West Mall Entrance of the premises.

36. Upon information and belief, that at some point prior to March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, retained defendant, SCUNGIO BORST & ASSOCIATES, LLC, to place the temporary door saddle at the left doorway entrance at the Level P1 West Mall Entrance of the premises.

37. Upon information and belief, that at some point prior to March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, hired defendant, SCUNGIO BORST & ASSOCIATES, LLC, to place the temporary door saddle at the left doorway entrance at the Level P1 West Mall Entrance of the premises.

38. Upon information and belief, that at some point prior to March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, hired defendant, SCUNGIO BORST & ASSOCIATES, LLC, to install the temporary door saddle at the left doorway entrance at the Level P1 West Mall Entrance of the premises.

39. Upon information and belief, that at some point prior to March 3, 2016, the defendant, BROOKLYN KINGS PLAZA LLC, retained defendant, SCUNGIO BORST & ASSOCIATES, LLC, to install the temporary door saddle at the left doorway entrance at the Level P1 West Mall Entrance of the premises.

40. Upon information and belief, prior to March 3, 2016, defendant, SCUNGIO & BORST ASSOCIATES, LLC, placed the temporary door saddle at the left doorway entrance at the Level P1 West Mall Entrance of the premises.

41. Upon information and belief, prior to March 3, 2016, defendant, SCUNGIO & BORST ASSOCIATES, LLC, installed the temporary door saddle at the left doorway entrance at the Level P1 West Mall Entrance of the premises.

42. Upon information and belief, prior to March 3, 2016, defendant, SCUNGIO & BORST ASSOCIATES, LLC, fabricated the temporary door saddle for the left doorway entrance at the Level P1 West Mall Entrance of the premises.

43. Upon information and belief, that on March 3, 2016, the edges of the permanent door saddles at the center and right doorway entrances leading to the shopping mall at Level P1 West Mall Entrance of the premises were flush with the adjoining floor.

44. Upon information and belief, that on March 3, 2016, the edges of the temporary door saddle at the left doorway entrance at Level P1 West Mall Entrance was not flush with the adjoining floor.

45. Upon information and belief, that on March 3, 2016, the temporary door saddle at the left doorway entrance at Level P1 West Mall Entrance was raised.

46. Upon information and belief, that on March 3, 2016, the temporary door saddle at the left doorway entrance at Level P1 West Mall Entrance was not level with the adjoining floor.

47. Upon information and belief, that on March 3, 2016, the temporary door saddle at the left doorway entrance at Level P1 West Mall Entrance was mis-leveled.

THE CLAIM

48. Plaintiff incorporates and restates each of the above paragraphs as if set forth fully herein.

49. That on the 3rd of March 2016, the plaintiff, TAHIRAJ HASAN, was lawfully upon the said premises.

50. That on the 3rd of March 2016, at approximately 6:20p.m., the plaintiff, TAHIRAJ HASAN, was attempting to enter the premises at the Level P1 West Mall entrance.

51. That while attempting to enter the mall through the left doorway at the Level P1 West Mall entrance, the Plaintiff was caused to trip and fall as of a result of the raised and mis-leveled temporary door saddle at the left doorway entrance at the Level P1 West Mall Entrance of the premises.

52. That the defendants created the condition of the temporary door saddle at the left doorway entrance at the Level P1 West Entrance of the premises where Plaintiff tripped and fell.

53. That the defendants had actual notice of the condition of the temporary door saddle at the left doorway entrance at the Level P1 West Entrance of the premises where the Plaintiff tripped and fell.

54. Upon information and belief, the condition of the temporary door saddle at the left doorway entrance at the Level P1 West Entrance of the premises where the Plaintiff tripped and fell, existed for so long a period of time before the accident that the defendants, their agents, servants, employees and/or representatives, by the exercise of due care, should have had notice and knowledge thereof.

55. That the Plaintiff's fall occurred due to the negligence of the defendants in the ownership, operation, management, maintenance, control and repair of the premises, as well as in the fabrication, placement and installation of the temporary door saddle.

DAMAGES

56. Plaintiff incorporates and restates each of the above paragraphs as if set forth fully herein.

57. That the Plaintiff sustained severe and serious injuries as a result of tripping and falling as a result of the temporary door saddle at the left doorway entrance at the Level P1 West Mall Entrance of the premises.

58. That the Plaintiff has sustained great pain and suffering, shock and anguish, and will suffer same in the future.

59. That the Plaintiff's injuries are permanent.

60. That the Plaintiff has incurred medical, hospital and related expenses.

61. Upon information and belief, the Plaintiff will incur hospital, medical and related expenses in the future.

62. That the Plaintiff has been disabled from activities and will so remain in the future.

WHEREFORE, Plaintiff **HASAN TAHIRAJ** demands judgment against the Defendants as follows:

- Past and future conscious pain and suffering in the sum of \$3,500,000;
- Past medical, hospital and related expenses, last known to be approximately \$62,000, in such amount as will be proven at the time of trial;
- Future medical expenses: \$ 1,500,000.00, subject to more accurate information from an Expert Life Care Planner and economist;
- Costs and such further relief as this Court may deem just and proper.

FILED: KINGS COUNTY CLERK 07/22/2019 12:44 PM

INDEX NO. 513231/2016

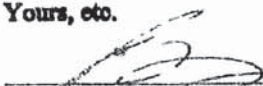
NYSCEF DOC. NO. 49

RECEIVED NYSCEF: 07/22/2019

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**Dated: Forest Hills New York
May 19, 2017**

Yours, etc.


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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
Civil Action No: 1:17-cv-00167-JBW-LB_

HASAN TAHIRAJ ,

Plaintiff,

-against-

BROOKLYN KINGS PLAZA LLC and SCUNGIO BORST
& ASSOCIATES, LLC,

Defendant.

SUMMONS & AMENDED COMPLAINT

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Date: May 30, 2017